

Submitted by: Assembly Chair Coffey  
Assembly Vice Chair Ossiander  
Ethics Chair Sullivan  
Reviewed by: Assembly Counsel  
For reading: October 9, 2007

CLERK'S OFFICE

APPROVED  
Date: 10-9-07

ANCHORAGE, ALASKA  
AR NO. 2007-230

1 A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY ADOPTING  
2 RECOMMENDATIONS OF THE BOARD OF ETHICS IN THE MATTER OF ETHICS BOARD  
3 CASE NUMBER 2007-1 REGARDING A VIOLATION OF ETHICS CODE § 1.15.070.K BY  
4 ASSEMBLY MEMBER PAUL BAUER IN SUBMITTING DOCUMENTS FOR FILING WITH  
5 THE ETHICS BOARD ALLEGING AN ETHICS VIOLATION AND SUBSEQUENTLY  
6 HOLDING A PRESS CONFERENCE TO DISCUSS THE SAME ALLEGED ETHICAL  
7 VIOLATION.

---

8  
9 WHEREAS, after more than a year of work and based on  
10 recommendations of the Ethics Board, the Anchorage Municipal Assembly  
11 adopted a new Ethics Code, effective January 1, 2007; and  
12

13 WHEREAS through numerous work sessions and substantial public  
14 deliberation prior to final adoption, the Assembly was mindful of supporting the  
15 integrity of the Ethics Board processes by striking an appropriate balance  
16 between the public interest in open disclosure and the public interest in not  
17 allowing the filing of a complaint with the Ethics Board to become public until the  
18 Ethics Board has completed its review and issued a report; and  
19

20 WHEREAS, to ensure the integrity of the Ethics Code processes, Ethics  
21 Code 1.15.070K requires that confidentiality be maintained and that "no person  
22 shall knowingly disclose to another person, or otherwise make public, in violation  
23 of this chapter, the contents of a notice of potential violation"; and  
24

25 WHEREAS, on or about March 19, 2007, Assembly Member Bauer  
26 delivered to administrative staff of the Ethics Board, documents which he referred  
27 to as an Ethics Complaint and requested that the documents be submitted to the  
28 Ethics Board; and  
29

30 WHEREAS, on or about March 20, 2007, Assembly Member Bauer held a  
31 press conference alleging an "Ethics Violation" relative to the same subject  
32 matter set out in the documents submitted to the Ethics Board; and  
33

1 WHEREAS, on or about May 15, 2007, a member of the Ethics Board filed  
2 a notice of potential violation against Assembly Member Bauer, based on  
3 Assembly Member Bauer's press release and press conference coupled with  
4 documents submitted by Assembly Member Bauer to administrative staff and  
5 forwarded to the Ethics Board, along with Assembly Member Bauer's request.  
6 The Ethics Board member withdrew himself from further participation as an  
7 Ethics Board member on this matter, concurrent with the Ethics Board member's  
8 filing of the notice of potential violation; and  
9

10 WHEREAS, the notice of potential violation alleged that submitting the  
11 documents to the Ethics Board and subsequently issuing a press release,  
12 substantially similar to the content of the ethics complaint, was in violation of  
13 Ethics Code 1.15.070K; and  
14

15 WHEREAS, on August 17, 2007, the Ethics Board conducted a hearing on  
16 the notice of potential violation filed by its member; and  
17

18 WHEREAS, on September 6, 2007, as required by the Ethics Code, the  
19 Ethics Board issued its written report and findings to the Anchorage Assembly  
20 which determined that "the filing of a document with the evident intent of making  
21 a complaint of violation of the Code of Ethics or the seeking of an Advisory  
22 Opinion will trigger the confidentiality provisions of 1.15.070 K...."; and  
23

24 WHEREAS, this is the first such matter to come before the Assembly  
25 since the adoption of the new Ethics Code; and  
26

27 WHEREAS, the Assembly is required to address the  
28 recommendations of the Ethics Board and is also duty-bound to establish  
29 principles for the conduct of its Members under the Ethics Code,  
30 particularly where there is some uncertainty associated with the  
31 requirements of the new Code;  
32

1 NOW THEREFORE BE IT RESOVED that the Anchorage Assembly, after  
2 a detailed and thorough review of this matter by the Chair, the Vice Chair and the  
3 Chair of the Ethics Committee, and with the assistance of the Assembly's  
4 Attorney, the Assembly adopts the following principles with regard to the  
5 confidentiality requirements of the Ethics Code:  
6

- 7 1. The confidentiality requirements of the Ethics Code are of paramount  
8 importance and must be rigorously implemented so as to ensure that  
9 the decisions, reports, findings and recommendations of the Ethics  
10 Board are without political taint or question. Only in this way, can the  
11 Ethics Board perform its vital functions.  
12
- 13 2. The Ethics Code sets forth a confidentiality requirement. As a new  
14 Code, questions arise as to when this requirement is to be imposed.  
15 This Assembly determines, as a matter of law, that when any  
16 submittal is made to the Ethics Board or to its administrative staff,  
17 which sets forth allegations of an ethical violation, the confidentiality  
18 provisions of the Ethics Code shall apply. The substance of a  
19 complaint to the Ethics Board alleging a violation should be treated as  
20 confidential, whether or not the form of the complaint to the Ethics  
21 Board is technically correct.  
22
- 23 3. To avoid undesirable consequences under the Code of Ethics, all  
24 Assembly Members are encouraged to act with due deliberation, to  
25 seek and follow legal counsel in matters concerning the Ethics Code,  
26 and to maintain confidentiality in the process.  
27

28 BE IT FURTHER RESOLVED that the Anchorage Assembly hereby adopts  
29 the recommendations of the Ethics Board regarding Notice of Potential Violation  
30 2007-1,  
31

- 32 1. The Assembly, hereby admonishes Assembly Member Paul Bauer for  
33 not maintaining confidentiality after he submitted documents for filing  
34 with the Ethics Board, when he subsequently held a press conference  
35 at which reference was made to the same alleged ethical violations.  
36

2. The Assembly further requires Assembly Member Paul Bauer to attend and complete appropriate ethics training on the new Ethics Code requirements within six (6) months of the date of this Resolution.

PASSED AND APPROVED by the Anchorage Assembly this 9<sup>th</sup> day of October, 2007.

  
Chair

ATTEST:

  
Municipal Clerk